

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: \_\_\_\_\_ ) Chapter 11  
                  ) \_\_\_\_\_  
EASTERN LIVESTOCK CO., LLC,         ) Case No. 10-93904-BHL-11  
                  ) \_\_\_\_\_  
Debtor.         ) \_\_\_\_\_

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**TRUSTEE'S OBJECTION TO CLAIM 492 FILED BY DARBY MONTGOMERY AND  
NOTICE OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 492 (the "Claim")<sup>1</sup> filed by Darby Montgomery. The Trustee requests that the Court enter an order reclassifying and allowing the Claim as a general unsecured claim in the amount of \$2,020.80. In support of this Objection, the Trustee respectfully states:

**Jurisdiction**

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

**Background**

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11 bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against

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<sup>1</sup> All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

#### **Request for Relief**

6. By this Objection, the Trustee seeks entry of an order reclassifying and allowing the Claim as a general unsecured claim in the amount of \$2,020.80.

7. It is unclear if the Claim asserts a secured claim or merely fills out information regarding the debt owed in the secured claim area. Regardless, the Claim does not cite any law or fact to demonstrate that the Claim is entitled to secured status. Debtor's books and records do not indicate any basis for awarding the Claim secured status. The Trustee does not believe that the Claim properly asserts secured status and files this Objection to clarify the classification of the Claim.

8. The Trustee objects to the Claim and requests that the Claim be reclassified and allowed as a general unsecured claim in the amount of \$2,020.80.

**Notice of Response Deadline**

9. If Darby Montgomery wishes to contest the relief requested in this Objection, Darby Montgomery must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order reclassifying and allowing the Claim as a general unsecured claim in the amount of \$2,020.80 and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 11, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on March 11, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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36 Thompson Rd  
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/s/ Dustin R. DeNeal